

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF ACC OF KENTUCKY, LLC,)
AND SBA, INC., JOINTLY, FOR ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT A PERSONAL)
COMMUNICATIONS SERVICES FACILITY IN)
LOUISVILLE MAJOR TRADING AREA [VINE)
GROVE FACILITY])

CASE NO.
2001-153-UAC

O R D E R

On June 6, 2001, ACC of Kentucky, LLC and SBA, Inc. ("Applicants") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility is to be located at Otter Creek Road, Vine Grove, Meade County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 48' 30.9" by West Longitude 85° 59' 37.8".

The Applicants have provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a Licensed Professional Engineer has certified the plans.

Pursuant to KRS 100.987, the Applicants have submitted the uniform application to the local planning unit. The City of Vine Grove Planning Commission ("Planning Commission") originally had concerns regarding the placement of the proposed tower. However, the Applicants have amended the original application to reflect relocation of the

proposed facility, and the Planning Commission has approved the proposed construction. The Applicants have filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed facility. Both decisions are pending.

The Applicants have filed evidence of the appropriate notices provided pursuant to 807 KAR 5:063. The notices solicited any comments and informed the recipients of their right to request intervention. Six parties were granted intervention in this proceeding. However, the Commission has received no statement of intent to appear at the public hearing or information regarding alternate sites from the intervenors. Furthermore, the Commission has received no complaints or further contact from these individuals.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, the Applicants should notify the Commission if they do not use this antenna tower to provide service in the manner set out in their application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by the Applicants.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicants have demonstrated that a facility is necessary to provide adequate utility service and therefore should be granted a Certificate of Public Convenience and Necessity to construct the proposed facility.

IT IS THEREFORE ORDERED that:

1. The Applicants are granted a Certificate of Public Convenience and Necessity to construct a wireless telecommunications facility. The proposed facility is to be located at Otter Creek Road, Vine Grove, Meade County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 48' 30.9" by West Longitude 85° 59' 37.8".

2. The Applicants shall file a copy of the final decisions regarding their pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.

3. The Applicants shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 17th day of September, 2001.

By the Commission

ATTEST:


Executive Director